

## **MINUTES**

JOINT MEETING OF THE  
**ADVISORY BOARD ON NATURAL RESOURCES**  
AND  
**STATE LAND USE PLANNING ADVISORY COUNCIL**

**MAY 2, 2003**

Meeting Location

Conference Room B  
Division of Wildlife  
1100 Valley Road  
Reno, Nevada

**FRIDAY, May 2, 2003**

CALL TO ORDER

The meeting was called to order by Advisory Board on Natural Resources chairperson Dennis Selleck at 8:40 am.

ADVISORY BOARD ON NATURAL RESOURCES:

Members Present

Dennis Selleck, Chairperson  
Don Qiulici, Vice-chairperson  
John Vernarecci  
Barbara Curti  
Mike Pavlakis  
Russ Fields

Members Absent

Randy Capurro

STATE LAND USE PLANNING ADVISORY COUNCIL

Members Present

Bill Whitney, Washoe County  
Pete Livermore, Carson City  
Gary Bengochea, Humboldt County  
Nick Malarchik, alternate for Lyon County  
Jon Hutchings, alternate for Eureka County  
Varlin Higbee, Lincoln County  
Robert Kershaw, Storey County

Members Absent

Roger Mancebo, Pershing County  
Gwen Washburn, Churchill County  
John Schlegel, Clark County  
Steve Weissinger, Douglas County  
Stephanie Lawton, Esmeralda County  
Mickey Yarbo, Lander County  
Jeff Taguichi, Nye County  
David Provost, White Pine County

Note: Elko and Mineral County seats are currently vacant.

OTHERS ATTENDING

R. Michael Turnipseed, P.E., Department of Conservation and Natural Resources  
Freeman Johnson, Department of Conservation and Natural Resources  
Pamela Wilcox, Division of State Lands  
Mike Del Grosso, Division of State Lands  
Kevin Kirkeby, Senator Ensign's Office  
Juan Guzman, Carson City  
Skip Canfield, Division of State Lands  
Jo Simpson, Bureau of Land Management  
Meg Jensen, Bureau of Land Management  
Laura Richards, Division of Wildlife  
Steve Weaver, Division of State Parks  
San Stiver, Division of Wildlife  
Rex Wells, Bureau of Land Management  
Self introduction of those present was made.

**APPROVAL OF ADVISORY BOARD ON NATURAL RESOURCES MINUTES**

**Don Quilici made a motion, seconded by John Vernarecci, that the minutes of the November 14, 2002 meeting be approved. The motion was passed by affirmative vote of all members present (4-0). Members Fields and Pavlakis had not yet arrived and did not vote.**

**APPROVAL OF STATE LAND USE PLANNING ADVISORY COUNCIL MINUTES**

Since a quorum of State Land Use Planning Advisory Council members were not in attendance, no action could be taken on approval of the July 16, 2002 meeting minutes. Action was postponed until a future meeting.

A selection of a meeting chairperson did not take place as scheduled. Since the chairperson of the State Land Use Planning Advisory Council was not present, Mr. Selleck continued to serve as chairperson for the meeting.

### **REPORT OF THE DIRECTOR**

R. Michael Turnipseed, P.E., Director, Department of Conservation and Natural Resources, distributed a letter he had written to JohnD Winters in reply to the one Mr. Winters had sent to the Advisory Board and others. This item is scheduled as an informational item later in the meeting. Mr. Turnipseed stated that the board should review the letter to determine if it conveys the wishes of the board.

Mr. Turnipseed told the board and council that there have been many bills affecting the department that have been introduced into the 2003 Legislature. A summary of the most significant bills was made.

SB 346 requires the Department of Personnel to increase compensation for certain law enforcement positions such as game wardens, investigators and law enforcement specialists.

SB 420 provides for fee increases for fishing and hunting licenses. The Division of Wildlife would like to have increases tied to the automatic cost-of-living changes, however, there is some opposition to automatic increases.

SB 127 makes various changes to provisions governing hazardous materials and industrial explosions. The Division of Environmental Protection is most affected by this bill.

SB 200, another environmental protection bill, would provide funding to pay for certain costs associated with connections to a community sewage disposal system in the Spanish Springs Valley area of Washoe County.

SB 233 increases the amount of general obligation bonds the state Board of Finance may issue to allow grants for small city water systems. The amount of the bonds would be \$17,000,000.

SB 444 would allow transfer of Floyd Lamb State Park to the city of Las Vegas.

AB 4 revises provisions governing hunting and fishing licenses by removing a 5-year residency requirement for reduced senior citizen fees.

AB 41 converts the Division of Wildlife into a Department of Wildlife, under the control of the Board of Wildlife Commissioners. The bill was passed by the Assembly Natural Resources committee and had a hearing by Ways and Means on April 21. There has been no further action on the bill to date.

AB 74 provides for a revolving fund to finance remediation of "brownfield" sites. Brownfields are former industrial/commercial sites that need rehabilitation to make the sites usable. This would be administered by the Division of Environmental Protection.

AB 473 transfers authority to administer certain accounts that provide financial assistance to public water systems from the Division of Health in the Department of Human Resources to the Division of Environmental Protection.

AB 474 revises provisions governing payment of expenses of the Commission for the Preservation of Wild Horses from money in the Heil Trust Fund for Wild Horses. Currently, there is not enough coming from the interest generated by the fund to meet expenses. The interagency program established with the BLM reduced the corpus of the fund by \$400,000.

Mr. Turnipseed stated that the department consists of 8 divisions and 2 programs which are scattered about Carson City in many separate leased buildings. The Division of Wildlife is in Reno. With the Division of Environmental Protection adding new positions there is a need for additional office space. The legislature, with the support of the Governor's office, is considering two new office buildings on property the state already owns in the Capitol Complex. The first building will be for the Department of Conservation and Natural Resources with the second, to be started six months after the first, for the Department of Human Resources. The buildings will have 120,000 square feet in area and will be built as a lease purchase. The funds to pay for the buildings will come from the money now being paid for leased space by the agencies. Bids are to be let in June with ground-breaking expected in August. The first building should be available for occupancy in June 2005.

Retirements affecting the department include Verne Rosse and David Cowperthwaite with the Division of Environmental Protection and Environmental Commission. All positions are "frozen" but generally permission can be received to fill key administrative positions.

In response by a question from Don Quilici regarding fiscal impact on creating a Department of Wildlife, Mr. Turnipseed said a fiscal note was submitted with the bill. Administrator Terry Crawford indicated there would be no cost, however, it is felt that there would be some fiscal impacts in such a change.

Asked why the legislature is not in favor of license fees being attached to an automatic cost-of-living incremental change, Mr. Turnipseed stated that it could be that there would be less control if such a procedure was instituted. The increase proposed in the bill is about 20%. County wildlife boards support the increase in fees.

Dennis Selleck stated that there is a lot of concern in southern Nevada with sportsmen groups about fee increases. There are claims that the increases will be about a 300% increase which isn't true. The cost of licenses are actually cheap at this time compared to the cost of other types of recreation and entertainment.

Regarding the letter sent to JohnD Winters from Mr. Turnipseed, Mike Pavlakis said the Carson River Subconservancy has a concern about the BLM's intent on the use of Carson River water that may be acquired through the purchase of water rights. It was

asked that a copy of Mr. Turnipseed's response letter be made available to the Subconservancy.

On the Walker Lake situation, Mr. Turnipseed said a mediator has been hired and meetings among all parties have been held since January 2003. A confidentially agreement has been made among participants and most discussion items can't be publicly disclosed at this time. One change made was to relocate much of the cloud-seeding efforts from the Truckee River Basin to the Walker River basin this winter. The outlook is for near average run-off this season. Other efforts are underway to get increased flows to Walker Lake as soon as possible but some may not be implemented this year. Provisions in the Farm Bill passed by Congress addressing Walker River will take too long to implement and quicker actions are needed to relieve the stressed fish in the lake.

The Farm Bill provides up to \$2,000,000 to take 10,000 acre feet of decreed water to Walker Lake, reduce tamarisk, acquire affluent from the power plant, channel clearance, and other actions to increase flows to the lake.

Barbara Curti said she appreciated the efforts being made to avoid impacts to upstream users and agricultural users of the Walker River. The economies of the valleys where historic water use takes place must be protected.

Mr. Turnipseed pointed out that in 2001 58% of the water that flowed past the Wabuska gage was lost before it got to Weber Reservoir downstream. Getting rid of beaver dams in the area will be very helpful in adding water to Walker Lake. Aeration devices to help water quality in the lake have been discussed but are very expensive. Similar actions have helped fish in some California reservoirs.

#### **LAND USE PLANNING RELATED LEGISLATION**

Skip Canfield, Division of State Lands, distributed a summary of planning related legislation being considered in the current legislative session. The bills summarized included:

AB 196            In Clark County, the county or cities may require by ordinance that developers of non-residential construction projects dedicate land for regional parks, or in-lieu of a dedication, pay a fee based on the size of the project. The bill further specifies details that must be addressed in the ordinance regarding the dedications or in-lieu fees.

AB 245            Creates limits on the conditions a governing body or planning commission may require where a mobilehome park is being converted into individually owned mobilehome lots. Only reasonable conditions relating to health and safety may be imposed, all others are not allowed.

AB 270            Expands the criteria the governing body must consider before acquiring any property or constructing any building in a redevelopment area. Findings added relate

to public benefit, creation of economic opportunities, increase in local revenues, promote higher use levels, and others.

AB 291 As amended, provides that in Clark County and cities in that county, planning commissioners serve at the pleasure of the appointing authority. There are also limits placed on the continuance of items by the planning commission and revises the appeal process. The bill in its original form would have abolished planning commissions in Clark County, transferring their power to the governing body.

AB 390 Precludes a governing body from requiring a property owner to maintain any unimproved portion of an abutting public right-of-way or to maintain, reconstruct or repair an existing median, sidewalk or street improvement where property abuts a public right-of-way.

AB 408 Prohibits a governing body from adopting an ordinance that prohibits a property owner from displaying the national flag. It also nullifies any deed restriction that prohibits the display of the flag in a non-commercial manner.

AB 427 Prohibits a governing body from requiring an owner of land to dedicate real property or any interest in real property as a condition for the issuance of a building permit. Dedication requirements, however, can be established by ordinance if the requirements are imposed in a non-discretionary fashion to a broad class of property owners.

AB 488 Requires notification of an owner of a ditch that is not within an irrigation district when the land on which the ditch is located is proposed for subdivision. This will only apply to counties having a population less than 100,000.

SB 176 Requires affidavits be completed and signed by those providing notices of public hearings. The affidavits must include: date notice provided; a copy of the notice; a list of those notified; and be based on personal knowledge that the notice has been provided. The bill also adds Washoe County to the same noticing requirements now applying to Clark County. For zone change hearings both Washoe and Clark County will have to notify property owners within 750 feet of the property under consideration (up from the 500 feet now required) and notify each tenant of a mobile home park located within 750 feet.

SB 181 Revises provisions relating to an amendment process of a redevelopment plan adopted under the provisions of NRS 279 (Community Redevelopment).

SB 236 Restricts local governments from allowing a halfway house for recovering alcohol and drug abusers to be established within 500 yards of a school, park or place where children normally congregate.

SB 328 Provides for the establishment of "Regional Development Districts" to address urban and rural problems that require the coordination of various governmental

bodies. Establishes the existing Western Nevada Development District as such a district.

SB 354 Requires final maps for subdivisions to show: any roads or easements of access which the owner intends to offer for dedication; any easements for public utilities which exist or are proposed; and any easements for community antenna television. In addition, "Maps of Division into Large Parcels" must also include any easements for community antenna television.

SB 358 Establishes the "Red Rock Conservation Area and Adjacent Lands Act" which creates limits on development in certain areas adjacent to the Red Rock Canyon National Conservation Area in Clark County. The limitations established are to restrict development to that which is in harmony with the National Conservation Area.

SB 359 Prohibits a governing body from adopting an ordinance that prohibits an owner of real property from engaging in the display of the flag of the United States. Other sections of the bill establish similar prohibitions on property owner associations and landlords.

Bills introduced but no longer being considered:

AB 379	Truckee Meadows Regional Planning Commission voting.
AB 380	Eliminate spheres of influence.
AB 428	Master plan adoption process.
AB 455	Gas tax/impact fee changes.
SB 30	Zoning hearings.
SB 142	Master plan resolution.
SB 279	Growth limits by initiative.

Bill Whitney asked if the restrictions established in SB 358 could not have been done by the county in a local planning process. Mr. Canfield said there was a lot of discussion by the county during the legislative hearings but the county did not oppose. Mr. Turnipseed added that the area involved has been mined for gypsum and could be developed with many residential units adjacent to the Red Rock Canyon National Recreation Lands. The act is precedent setting since it appears to be a state level imposition of land use planning on a local jurisdiction.

### **THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT**

Meg Jensen, Bureau of Land Management, distributed a summary on the status of implementing the act. She outlined key points of the summary. As of March 24, 2003 the BLM has offered 3,951 acres of BLM land in the Las Vegas Valley in 236 separate parcels. Of these, 225 parcels containing 3,897 acres have been sold. Total revenue has been \$333,387,611 which is \$110.4 million over appraised fair market value. From sale proceeds, \$23,400,000 has been contributed to the Southern Nevada Water Authority and \$14,100,000 has gone to the State of Nevada for the Permanent School Fund. The remaining revenues are spent for the following purposes:

- acquisition of environmentally sensitive land in Nevada with priority given to lands in Clark County;
- capital improvement projects at Lake Mead NRA, the Desert National Wildlife Refuge, Red Rock Canyon NCA, Spring Mountains NRA and BLM administered lands in Clark County;
- development of a multi-species habitat conservation plan in Clark County;
- development of parks, trails and natural areas by local governments in Clark County; and
- reimbursement of costs incurred by local BLM offices in arranging sales under the Act.

Land acquisitions to date have totaled more than \$187,000,000, one-half of which has been expended in Washoe County.

Ms. Jensen continued stating that three rounds of nominations for property acquisitions and other expenditures have been completed. Currently, the round four process is underway and is in a public comment period stage on proposed acquisitions. The technical working group has met and preliminarily ranked the various nominations for acquisition and other eligible projects. In early June the Executive Committee, comprised of high-ranking officials from the BLM, USFS, NPS and USFWS will meet to develop a recommendation list for the Secretary of the Interiors' consideration.

Pam Wilcox, Division of State Lands, said she is the state representative on the technical working group. The process developed has worked well and the federal agencies involved with land sales and acquisitions and project development have done a very good job. There is concern, however, on the impacts of land acquisitions in rural Nevada. The process for round five will be changed to allow more time for local governments to provide input on proposed acquisitions in their jurisdiction. There will also be an effort to help local governments evaluate the impacts an acquisition may create.

One method being given consideration is having a proposed seller of land nominated for acquisition to bring the proposal to the local government with information on potential impacts for their response. Developing a system to get better local government response will be difficult since local governments sometimes find themselves in an awkward position. While they are concerned about increased federal land ownership they are also hesitant to interfere with the rights of a private property owner in selling property. Mitigation of impacts may also be a consideration. The Nevada Association of Counties would like to see some of the SNPLMA funds used to address impacts to rural governments.

Bill Whitney stated that the program has been positive for Washoe County. Sensitive lands have been acquired in the Reno/Sparks/Washoe Valley areas. These acquisitions help implement the county's open space plan. Referring to the list of nominated properties in round four made available by the BLM, Mr. Whitney pointed out that the large figure for Washoe County comes primarily from the nomination of the 17,500 acre



Home Ranch proposal in northern Washoe County. Most acquisitions in Washoe County have been smaller parcels.

Mike Pavlakis asked where the money for water and the state goes. In reply, Ms. Wilcox stated that the 5% that comes to the state is put into the state permanent school fund for education. The 10% that goes to the Southern Nevada Water Authority is used by that agency to develop water delivery systems and infrastructure in the Las Vegas Valley.

Ms. Jensen summarized the process currently being used to evaluate property acquisition nominations. Nominations can be made by any property owner or agency, however, nominated properties must be included on the acquiring agency's plan for acquisition, and must be free from hazardous contamination. The property owner must also be a willing seller. A technical working group reviews all the nominations and with a comprehensive ranking system develops a priority list of acquisitions. The rankings and nominations are put through a public review process before the executive group develops recommendations for consideration by the Secretary of the Interior. For the other "pots" of monies, subcommittees are established that report their evaluations to the technical group. All expenditures are forwarded to the executive group.

Ms. Wilcox pointed out that the ranking system for property acquisitions "awards" more points to property in Clark County, in accord with provisions of the Act.

In response to a question regarding whether the many individual Douglas County conservation easements are being evaluated as individual properties, Ms. Jensen stated that properties having similar features have been put into groups.

Gary Bengochea stated that Nevada First Ranch in Humboldt County was approved for a 10,000 acre acquisition in round one. The company, instead of selling, tried to get an exchange to keep federal ownership in balance in the county. It turned out that the BLM couldn't put an exchange together and the proposal is now being reconsidered in round four. Counties want no net loss of private property but the BLM lacks the funds to get an exchange ready.

Ms. Wilcox said there are three Nevadas: Clark County, northwest Nevada (Washoe, Douglas and Carson City); and rural Nevada. They all have different needs. An attempt is made to use the funds to meet the needs of all.

Pete Livermore said a property Carson City wanted acquired for open space (Bernard property) was not recommended for acquisition in round four and asked why it was not ranked higher. Ms. Jensen stated that property, while important for Carson City, didn't have the environmental qualities to place it higher on the list. Most ranking points deal with environmental attributes the property may have. There are no criteria in the ranking system recognizing open space values only. The executive group, however, could move the property higher on this list.

Ms. Wilcox added that the Act was not designed to help local governments implement open space plans. The primary quality sought for acquired properties is environmental sensitivity. She also urged that local governments lobby for their interests.

John Hutchings mentioned a land acquisition proposal of 6,000 acres in Clover Valley which the justification used for acquisition was to prevent development into homesites. He asked if the State and BLM look at this as a valid consideration. Ms. Wilcox replied that if it is important for local government then their concerns are considered.

Varlin Higbee said SNPLMA money has made property values very high in some rural areas because of the willingness to pay higher prices for environmentally sensitive properties. The values placed on these lands are not what a rancher can afford to pay for livestock purposes. Ms. Jensen replied saying the BLM only can pay for the appraised value. Sometimes a willing seller no longer is a willing seller when it is learned the asking price is far greater than the appraisal.

Concluding, Ms. Jensen stated that after a property is acquired the BLM develops a management plan in a public process.

#### **IMPLEMENTATION OF THE "BACA" BILL IN NEVADA**

Meg Jensen, Bureau of Land Management, said the "Baca Bill", is officially known as to "Federal Land Transaction Facilitation Act". A summary of activities related to the act in Nevada was distributed. Briefly, the bill, which is westwide, allows the sale of BLM land already identified for disposal in a BLM plan. The proceeds from the sales are put in a special account to be used for sale administrative costs (up to 20%) and the acquisition of private inholdings and lands adjacent to other public lands.

Summarizing the handout, Ms. Jensen stated there have been 5 exchanges completed, two of which required equalization payments to the United States of \$210,000, and 10 sales completed in the Battle Mountain, Ely, Las Vegas and Winnemucca Districts generating over \$536,000 in revenues. Revenues from these sales/exchanges are distributed as follows: 4% to the state for the permanent school fund; and 96% to a special account that divides the revenues into an administrative account (\$143,245) and a land acquisition account (\$572,979). The administrative account is to help fund the BLM administrative costs of preparing land for sale such as cultural surveys, environmental work and appraisals.

Ms. Jensen said there are two exchanges currently pending, 53 sales identified for processing when funding becomes available. Thirteen sales should be processed during FY 2003. As sales occur additional funds will become available to process additional sales since a portion of the revenues from a sale are applied to future sale administrative costs.

Regarding program management, Ms. Jensen stated that the Washington D.C. BLM office is developing a national memorandum of understanding that will provide guidance for acquisitions and use of special account funds. In the Nevada State Office a process

is being developed for prioritizing exchanges/sales statewide and a program manager has added to the state office staff. Also, a realty specialist has been created in the Carson City Field Office to facilitate the program. A process to identify and prioritize potential land acquisitions statewide is undergoing internal review at this time. Land acquisitions will be coordinated with the Southern Nevada Public Land Management Act and Lincoln County Land Act.

The state office wants to accelerate BLM land sales under the act in rural areas to help balance acquisitions that are being made.

Ms. Jensen said the cost to BLM of processing a sale is the biggest impediment. With the limitation that only 20% of the administrative costs can be funded from the special account, the cultural survey costs alone can use all the administrative funds allocated to the sale where land values are low. Much of the land that may be sold is low value land where the costs of sale may exceed the price received.

Pete Livermore asked if the sale of BLM land in Douglas County adjacent to Carson City is considered a Baca sale? Ms. Jensen said it is and if the 140 acre parcel is sold revenues from that sale will go to the special account. The appraisal is for \$6,000,000 and the land is expected to bring in more than that. If the land is sold 20% of the sale price would go to fund other sales around the state. The sale, however, is being protested by Carson City.

Asked if the BLM will continue the sale if Carson City will be negatively impacted, Ms. Jensen stated that it is hoped the local governments can work out the issue. There is a lot of interest in the sale of this type of high value land since the revenues could be used to sell a lot of land in other parts of the state, especially low value land.

Don Quilici stated that he felt there was no driving force to sell the parcel since Carson City will be impacted negatively in an economic manner.

Pete Livermore said if the land is sold and developed commercially, as planned, there will be a substantial loss in sales tax revenue to Carson City. Douglas County will benefit at a cost to Carson City. If Douglas County could assure Carson City that no commercial development would be allowed then the protest could be reconsidered.

Russ Fields mentioned that one of the exchanges underway involves Barrick Bullfrog Company near Rhyolite and will help resolve abandoned mine problems. Mining companies can fund the cost of a sale to help get a sale on. He asked if those costs can be recouped following the sale.

Jo Simpson, Bureau of Land Management, stated that land must be sold at appraised value or higher in a competitive sale. There can be no guarantee that the mining company would be the successful bidder.

General discussion took place regarding the Douglas County parcel. It was mentioned that it is zoned commercial and residential and that the BLM is not obligated to sell the

property. The BLM, however, has expended considerable funds for a plan amendment, surveys, environmental assessment and appraisal to prepare the property for sale.

Regarding potential acquisitions using funds generated from public land sales, Barbara Curti stated that environmentally sensitive lands acquired by the BLM are not always as well maintained as they were when they were private. Public ownership is not always better and private ownership may be better for both economic and environmental purposes.

Ms. Jensen replied stating that State BLM Director Bob Abbey is very sensitive to public land acquisitions, especially in rural Nevada. Local BLM managers have to assure that they can manage the lands to be acquired and are required to work with local governments on this issue.

Bill Whitney said that Washoe County wants the Casey Ranch in Washoe Valley to be acquired into public ownership. The County wants to be involved in the management of the lands if they are acquired with Southern Nevada Public Land Management Act funds. Barbara Curti stated that livestock grazing and irrigation must continue on the property if it is acquired for it to remain the asset it now is. If not, it will dry up and go to weeds.

Gary Bengochea asked if the BLM first offers land to be sold to local governments. Ms. Jensen stated that is not included in the Baca Bill legislation. A local government could acquire BLM land under the Recreation and Public Purpose Act for a public purpose but the Baca Bill requires sale.

John Hutchings urged the BLM to keep local governments informed as the act is implemented.

At this point, Ms. Jensen introduced Rex Wells who will serve as the Baca Bill manager for the BLM. He will be moving to Reno from Las Vegas in July and will be the main contact person for the program. Mr. Wells is currently developing a list of possible BLM land disposals.

Mr. Bengochea stated that a BLM sale is currently under way in Humboldt County involving 9,141 acres to a rancher that will be partially covered by the Baca Bill.

#### **RS 2477: RECENT CHANGES IN THE CONGRESSIONAL PROVISION GRANTING RIGHTS-OF-WAY ON PUBLIC LANDS**

Meg Jensen, Bureau of Land Management, distributed information regarding a final ruling made on "recordable disclaimer of interest", a summary of what a disclaimer is and a copy of a memorandum of understanding between the State of Utah and the Department of the Interior regarding recognition of state and county roads.

As background, Ms. Jensen said during the homestead era in the 1860's and 1870's Congress granted a right-of way over public land to those that needed it. The grant was

for a right-of-way wherever the road was constructed to be followed by a filing for that right-of-way under the provision of RS 2477. RS 2477, established in 1864 by Congress, stated: "The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted." This provision was eliminated by the Federal Land Policy and Management Act in 1976.

Local governments constructed roads and later asked for the right-of-way under RS 2477. A number of such filings were made through the years and in the period 1986-1991 there were 57 claims made: 54 by counties; 2 by cities; and one by a state. The BLM was having difficulty in resolving many of the claims made and in a 1997 appropriations bill, Congress issued a moratorium on claims still in effect.

Ms. Jensen said that potential RS 2477 rights-of-way on land have created clouds on private ownership. This potential ownership issue was addressed by Congress in revisions to the Quiet Title Act. The Act allows any entry claiming title to lands or an interest in lands to apply for a "recordable disclaimer of interest" from the federal government. The recordable disclaimer of interest is an official determination that the United States neither owns nor holds a valid interest in certain lands. A new rule was issued in December 2002 to further the intentions Congress expressed in 1986 revisions to the Quiet Title Act and is designed to eliminate the need for private legislation or litigation to remove clouds of title to the lands in which the BLM no longer holds an interest. The rule:

- removes the 12-year regulatory filing deadline for states from the existing regulation to better conform to the revised Quiet Title Act;
- removes the requirement that an applicant be a "present owner of record" to be qualified under the Act;
- allows any entity claiming title, not just current owners of record, to apply for a disclaimer of interest;
- defines the "state" as used in this rule; and
- clarifies how the BLM will approve disclaimer applications involving another federal land managing agency.

Ms. Jensen stated the process established requires an application to the BLM with a filing fee of \$100. The applicant then will be required to provide an explanation of what is being sought, pay for processing costs and any required surveying. The application is published in the *Federal Register*. The BLM can process on a case-by-case basis or do an MOU to handle multiple cases. Utah has an MOU with the Department of the Interior to resolve these issues on RS 2477 issues state-wide. The Utah MOU establishes criteria stating a county won't ask for RS 2477 rights-of-way in wilderness areas, WSA's, national parks, etc. It also requires consensus with the federal managing agency and

includes a definition of a road. Ms. Jensen said that Nevada could consider developing a similar MOU. There has been limited interest from some counties so far.

Ms. Jensen stated that it has been found that the Coaldale to Bishop portion of Highway 6 was never granted a right-of-way. BLM has to do a survey of the route and the necessary research. Master Title Plats have to be updated following the surveys. It will be an expensive procedure to resolve that right-of-way problem.

Pam Wilcox said the RS 2477 issue has been around for many years. The state needs to know what the local needs are regarding right-of-way issues. If local governments will let the state know what their needs are the state can look into developing a MOU with the BLM. There now appears to be a process to resolve issues.

Pete Bengochea said that if there are no roads being closed then there is a tendency to leave the issue alone. Ms. Wilcox stated there is always a possibility that Congress could sunset the law, removing the avenue to resolve issues that will eventually need a solution. The federal government needs to firmly establish what is a road or not.

Don Quilici commended Ms. Jensen for her efforts to inform the Board and Council on some very difficult issues. Her explanations were of great benefit and appreciated.

The Board and Council adjourned for lunch at 11:40 am to reconvene at 1:30 pm.

### **FUTURE MEETING CONSIDERATIONS**

Aware that some members will not be attendance at the end of the meeting, Chairman Selleck moved this agenda item up at this time.

In general discussion it was determined that a joint meeting between the Advisory Board on Natural Resources and the Land Use Planning Advisory Council should be held once a year with agenda topics that are of concern for both groups.

The next Advisory Board meeting should be held in late summer/early fall in the Reno area.

### **QUESTION 1: THE NATURAL RESOURCE PROTECTION AND ENHANCEMENT ACT OF NEVADA**

Pamela Wilcox, Division of State Lands, said AB 9 of the 2001 Special Session of the Nevada State Legislature provided for a \$200,000,000 natural resource protection bond pending approval of the electorate in November 2002. The bond issued was approved by the state electorate. A summary of the provisions of the program established by the was distributed and presented.

Ms. Wilcox said various "pots" of money were created for a variety of purposes. A summary of these are:

Division of State Parks	\$27,000,000 for state park improvements administered by the division.
Division of Wildlife	\$27,500,000 for wildlife projects and habitat improvements.
Dept of Cultural Affairs	\$35,000,000 for construction of state museum in Las Vegas
Clark County	\$10,000,000 for county wetlands park at Las Vegas Wash.
Washoe County	\$10,000,000 for Truckee River restoration.
Las Vegas Springs Preserve	\$25,000,000 for planning and construction of Preserve.
Division of State Lands	\$50,500,000 for land/water acquisition, for open space and habitat planning, greenbelts, urban parks, Carson River restoration, recreational trails and Lake Tahoe path system.
Division of State Lands	\$15,000,000 for contracts with non-profit organizations for acquisitions of land and/or water for public benefit, to protect and enhance wildlife habitat, sensitive or unique vegetation, historic or cultural resources, riparian corridors, floodplains and wetlands, and other environmental resources.

Continuing, Ms. Wilcox stated that the \$65,500,000 administered by the Division of State Lands is further divided into a variety of "pots" and all require the development of regulations by the agency. The different categories administered by the division include:

- \$7,250,000 for grants to cities, counties and others for the construction of recreational trails. Matching funds are required as determined in the regulations to be developed and these projects must be coordinated with the Division of State Parks.
- \$5,000,000 for grants to cities, counties and others for acquisitions for urban parks and greenbelts, also with matching requirements. These grants must also be coordinated with the Division of State Parks.
- \$3,000,000 to counties having a population of less than 100,000 for development of habitat conservation plans, also with matching requirements to be determined by regulation.
- \$250,000 to counties having a population less than 100,000 for the development of open space plans with a match to be determined.
- \$20,000,000 to counties and municipalities for grants to acquire wildlife habitat, sensitive vegetation, riparian corridors, wetlands, historic/cultural resources and other environmental resources pursuant to an open space plan. The matching requirements established by Question 1 is 50% in counties with more than 100,000 population and 25% in counties less than 100,000 population.

- \$10,000,000 to Churchill, Douglas, Lyon and Carson City Counties for grants to enhance the Carson River corridor. A 50% match was established in Question 1.
- \$5,000,000 to Carson City, Washoe County and Douglas County for grants to develop a Lake Tahoe Path System. A match of 50% is required.
- \$15,000,000 through contracts/agreements with nonprofit conservation organizations for acquisitions of land and/or water interests for environmental, historic, cultural and other natural resource protection and enhancement. A 50% match is required and all acquisitions must include a state secured interest.

Ms. Wilcox told board members that the legislature must levy the \$.01 property tax increase to pay for the bonds and the Interim Finance Committee of the Legislature must approve the sale of the bonds. Neither action has yet occurred, however, approvals are expected prior to the end of the legislative session.

The Division of State Lands is currently in the process of developing the required regulations. A round of workshops were held around the state in February to get public input on what the regulations should address. A second round of workshops are now scheduled in May to get public input on the draft regulations that have been prepared based on the comments received in February. It is anticipated that interim regulations will be in place this summer with a grant application process available at the same time. The first grants could be issued during this fall. Efforts are currently underway to hire staff to administer the program. Funds to pay for staffing needs will come from interest generated by the bonds, not from the principal of the bonds.

Jon Hutchings asked how long term maintenance of projects will be paid. Ms. Wilcox replied that the draft regulations will require a 30-year plan on maintenance as part of the grant application for a project. Grants will be limited to capital improvements only and maintenance needs will not be funded.

Laura Richards, Division of Wildlife, said the division was allocated \$27,500,000 from Question 1 for a variety of wildlife related purposes. The division will leverage these funds with federal aid, volunteers and partnering to extend the funding. A similar program was established in 1991 using Question 5 funds. With Question 5 the agency was able to acquire the Howard Ranch in Elko County for wildlife enhancement, Lahontan Valley water rights, land in Mason Valley and the CCC Ranch in White Pine County, among other projects.

Question 1 (AB 9) directs the division to acquire property for wildlife/recreation/habitat renovation purposes. The division is looking at projects that are already in state approved plans that promote wildlife diversity, protect wetlands and riparian values, and provide recreation opportunities. Projects that are adjacent to existing wildlife facilities and provide the greatest leveraging to funds are a priority. The division has held public meetings around the state and set a deadline of April 1st for project nominations. A list of some 122 projects costing about \$87,000,000 have been nominated. Project priorities



will be established by the division. Future public meetings and nomination periods will be held.

Asked if county wildlife boards have been involved in the process, Ms. Richards said they have and the division will be seeking partnerships with counties on projects. In reply to a question on how the division will prioritize projects, Ms. Richards said there will be an effort to get a variety of projects in all areas of the state.

Regarding a question on who will make the final decisions, Ms. Richards said the projects will be ranked by the division then selections will be made on what projects on the list the division feels can be completed. Leveraging funds and matches available will affect which projects will go forward.

Pam Wilcox explained how the property tax to pay for the bonds will be levied. She also added that the Division of State Lands will be requiring applicants to involve local governments in projects they are proposing when applications are made for grants from the "pots" the division will be administering.

Steve Weaver, Division of State Parks, distributed a list of projects the division will be considering to be implemented with their portion of Question 1 funds. The list contained 58 prioritized projects with a total cost of \$38,030,230. Of the total, \$27,000,000 will come from bond funds and \$11,856,257 will come from federal grant matches. The highest land acquisition priorities are for Mormon Station in Douglas County, Spring Valley State Park in Lincoln County, Big Bend State Recreation Area in Clark County and Berlin Ichthyosaur State Historic Park in Nye County. An acquisition included on the list for Rye Patch State Recreation Area will not be acquired since the agency will be getting use of that property. An acquisition listed for Lahontan State Recreation Area will likely be dropped since the owner wants more than the property is worth. Another proposed acquisition at Lahontan may not be made since the priority is very low.

The three highest priority capital improvement projects are a campground at Kershaw-Ryan State Park, a water/sewer/electrical utility upgrade at Sand Harbor, and a visitor center addition at Valley of Fire State Park. These projects will be started first. Other projects expected to be commenced this year include: a family campground at Big Bend State Recreation Area; a campground expansion at Valley of Fire; courthouse stabilization at Belmont State Historic Park; visitor center/administrative office at Old Las Vegas Mormon Fort State Historic Park; and a family campground expansion and improvements at South Fork State Recreation Area.

Mr. Weaver summarized the other projects contained on the list. In reply to a question on why an acquisition of a mining claim at Berlin Ichthyosaur, Mr. Weaver stated that all other mining claims at the park have been acquired. The one in question is a patented claim that could be mined, at the detriment to the park.

### **SAGE GROUSE PROTECTION AND ENHANCEMENT PLANNING IN NEVADA**

San Stiver, Division of Wildlife, distributed a copy of a presentation made to the Western Governors Association regarding sage grouse. He stated that sage grouse are the "icon of sage brush habitat". They are the largest of the North American grouse and are distinctive in that they have no gizzard. Sagebrush is their critical habitat and sage grouse have a wide range- up to 60 miles. This wide range makes it difficult to manage habitat for the bird. In North America the wide range of the sage grouse has decreased greatly. Concerns were first expressed in the 1950's and some management efforts were started. By 1995 it was established that sage grouse and its habitat needed much more attention. There were considerations for listing but it was determined that listing was not warranted at that time. Conservation measures and other studies were started. In 1999 population viability analyses were completed which indicated planning measures taken for sage grouse were not working. New concerns about listing led to a memorandum of understanding amongst the western states, the BLM, USFS and USFWS to begin range-wide conservation efforts.

Continuing, Mr. Stiver said the MOU placed the states as the lead in conservation planning, using the model they felt best for their state. Different planning techniques are being used in the various states. In Nevada, the Division of Wildlife asked for a state-wide sage grouse planning team to be created. Governor Guinn supported the idea and set up a state team that included high-level people having a wide range of expertise to lead the effort.

It was determined that sage brush was very important for sage grouse, and other species, and a conservation strategy was developed to address sage grouse and sage brush habitat. The state team created six local planning groups consisting of resource people in local areas to address bird and habitat issues for various geographical units around the state. Some groups are bi-state. The local groups were charged with identifying risks to sage grouse in their area and developing strategies to address risks.

The Elko group started before the Governor had established the state planning team and are ahead of the other five local planning groups. All groups were given templates to follow based on USFWS criteria. Currently, local teams are working on assessments and drafts of their work have been received by the division. A technical writer has been hired to put the six separate documents together into one state-wide plan. This could take up to a year to complete. When that is completed a review process will occur and, later, the plan will go to the USFWS.

Mr. Stiver said the overall objective is to avoid a listing of the sage grouse and any of its sub species. To avoid listing all state plans must meet USFWS standards and approval. Currently there are eight petitions to the USFWS to list various populations of sage grouse. These are being held pending completion of state efforts.

In reply to a question on whether sage grouse can be raised commercially, Mr. Stiver said it is very difficult because of the diverse habitat needs. If a petition to list the bird is accepted the USFWS will have 90 days to react, 270 days to do research, and a year to

develop rules. Rules would address take and could impact grazing, water use, hunting, mining, wind generation and other activities in the state. There were efforts years ago to get rid of sagebrush for a variety of reasons and now we have to learn how to grow it. Sagebrush spreads very slowly.

In response to a question on how fuel management techniques affect sagebrush habitat, Mr. Stiver said sage grouse needs a variety of sagebrush types in its life cycle. Small scale reductions are not a problem. Local planning groups want to be involved in any land management decisions, including those involving fuel management.

### **WILDERNESS IN NEVADA**

Jo Simpson, Bureau of Land Management, distributed a map of Nevada showing wilderness areas and a history of wilderness in Nevada.

The Wilderness Act was enacted by Congress in 1964 and only pertained to the USFS, NPS and USFWS. The BLM was not included at that time. In 1976 the Federal Land Policy and Management Act authorized BLM's participation in the Wilderness Act. An initial inventory was started in 1977 on the 49,000,000 acres of BLM land in Nevada. That inventory identified 15,000,000 acres needing further study. In 1980 the BLM designated 110 Wilderness Study Areas (WSA) covering 5,100,000 acres. These are all managed as wilderness under an interim management policy until Congress decides which areas will be designated wilderness.

From 1980 to 1991 all WSA's were studied in the land planning process with 17 Environmental Impact Statements prepared. Mineral surveys were also conducted in each area. In 1991 the BLM recommended wilderness designation for about 1,900,000 acres in 52 WSA's and the release of 3,200,000 acres. This was followed by a presidential recommendation to Congress. Until fairly recently, there was no action by Congress on designation of BLM wilderness in Nevada.

Ms. Simpson stated that the first act of Congress addressing wilderness in Nevada was 1989. The Nevada Wilderness Protection Act created wilderness for USFS areas only, except for a small contiguous area of BLM land on Mount Moriah. The next action did not take place until 2000 when Congress passed the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area Act. This act created ten BLM wilderness areas of 751,844 acres within and adjacent to the NCA. In 2002 Congress passed the Clark County Conservation of Public Land and Natural Resources Act that established 444,295 acres of BLM wilderness in thirteen areas of Clark County.

Ms. Simpson concluded stating the rest of the Wilderness Study Areas (83) in Nevada remain and are currently in interim wilderness management status.

Kevin Kirkeby, Senator Ensigns Office, said there are current efforts to develop two public land bills that will also address wilderness designation in White Pine County and Lincoln County, similar to the Clark County bill. The effort started out as a tri-county effort with Nye County taking the lead. Nye County since dropped out. Recent

considerations have led to creating separate bills for each county. Many agencies and interests have been involved in developing issues for consideration. On-the-ground tours to WSA's started in March and public meetings have taken place. In addition, meetings with individual groups have been held to encourage "frank" discussions. There have been a lot of misunderstandings regarding wilderness. Workshops were held in Caliente and Ely recently to clear up issues regarding what can take place in a wilderness area. It was emphasized that grazing is allowed in wilderness areas and that additional guarantees can be made in legislation. Cherrystems can be created as necessary to allow access and historic motorized use can also be retained.

Mr. Kirkeby said there are 20 WSA's and 5 Instant Study Areas in the two counties encompassing about 2,700,000 acres, 592,000 acres that were recommended suitable as wilderness. The National Park Service could also include some wilderness within the Great Basin National Park as part of the White Pine County bill.

The Congressional delegation is looking for areas of agreement and will address issues in the legislative process. Draft legislation is expected by early fall.

Ms. Simpson added that all wilderness areas will have a management plan prepared and will address all issues that are involved.

Mr. Kirkeby said the Clark county bill addressed a lot of issues. Not everybody was happy but most people were satisfied. The Clark County Act will be a model for others but there are unique problems that need to be addressed in each individual area.

In response to a question on whether there will be other individual county bills on wilderness, Mr. Kirkeby replied that there will be but some counties will be combined with others.

Regarding what an Instant Study Area is, Ms. Simpson said they are areas that were designated as special study areas previously but did not have enough acreage to qualify as a WSA. These were added to the study process after WSA's were created and the BLM were required to evaluate them for wilderness qualities.

Don Quilici mentioned that as a wilderness user he is concerned about the "hardnosed" approach to firefighting in a wilderness area. Ms. Simpson said an agency can go into a wilderness area to fight a fire when needed. It depends on circumstances and how legislation addresses the issue.

### **INFORMATIONAL ITEMS**

1. JohnD Winter letter. Barbara Curti stated that she felt Mr. Turnipseed's response to Mr. Winter's letter, distributed earlier to members, was adequate and no additional response was needed.
2. ABNR response on legislative proposal to create a department of wildlife. Dennis Selleck said he had discussed the board's position on this matter with John

Moran, Jr., Chairman of the Board of Wildlife Commissioners, and Mr. Moran didn't need any additional response. Mr. Moran felt that the Board was opposed to wildlife and that concern was dispelled.

### **PUBLIC COMMENT**

Following a call for comment from the chairman, there was no public comment.

### **BOARD MEMBER COMMENTS**

Bill Whitney asked Jo Simpson if the BLM would consider consolidating BLM districts in Washoe County since the county is divided into three districts, including one in California (Susanville). Ms. Simpson said the Board of County Commissioners could ask the BLM to address this issue if it is a concern to them. BLM district boundaries were set many years ago based on a number of factors and these reasons would have to be evaluated.

Russ Fields suggested that the BLM map on Wilderness Study Areas should include county lines. It would be helpful to the reader to have that information on the map that is normally distributed.

Gary Bengochea said all counties in Nevada have similar issues and he felt the topics discussed at the joint meeting today were pertinent to all parts of the state and to members of both boards.

The meeting was adjourned at 4:00 pm

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Mike Del Grosso, Meeting Recorder

These minutes should be considered draft minutes pending their approval at a future meeting of the Advisory Board on Natural Resources and State Land Use Planning Advisory Council. Corrections and changes could be made prior to approval.

The meeting was tape-recorded. Anyone wishing to listen to the tapes may call (775) 687-4364 ext. 234 for an appointment. The tapes will be retained for three years.